

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
H.P. 859 - L.D. 1259

An Act To Increase Consumer Protections

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §90-F is enacted to read:

§90-F. Refusal of records for filing or recording; removal of filed or recorded records

1. Refusal. Notwithstanding any other provision of law, if a person presents a record to the Secretary of State for filing or recording, the Secretary of State may refuse to accept the record for filing or recording if the record is not required or authorized to be filed or recorded with the Secretary of State or the Secretary of State has reasonable cause to believe the record is materially false or fraudulent. This subsection does not create a duty upon the Secretary of State to inspect, evaluate or investigate a record that is presented for filing or recording.

2. Removal. The Secretary of State may remove a record that has been filed or recorded with the Secretary of State if the Secretary of State determines that the record was filed or recorded erroneously because the record was not required or authorized to be filed or recorded with the Secretary of State or the Secretary of State has reasonable cause to believe that the record is materially false or fraudulent. If the Secretary of State removes a record that was filed or recorded, the Secretary of State shall immediately notify the person who presented the record for filing or recording.

3. Action after refusal or removal. If the Secretary of State, pursuant to subsection 1, refuses to accept a record for filing or recording, the person who presented the record to the Secretary of State may commence an action in or apply for an order from the Superior Court to require the Secretary of State to accept the record for filing or recording. If the Secretary of State, pursuant to subsection 2, removes a record that was filed or recorded, the person who presented the record to the Secretary of State may commence an action in or apply for an order from the Superior Court to require the Secretary of State to reinstate the filing or recording from the original date of filing or recording. If the court determines that the record is appropriate for filing or recording, it

shall order the Secretary of State to accept the record for that purpose or require the Secretary of State to reinstate the record from the original date of filing or recording.

Sec. 2. 11 MRSA §9-1516, sub-§(2), ¶(f) and (g), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, are amended to read:

(f). In the case of an assignment reflected in an initial financing statement under section 9-1514, subsection (1) or an amendment filed under section 9-1514, subsection (2), the record does not provide a name and mailing address for the assignee; ~~or~~

(g). In the case of a continuation statement, the record is not filed within the 6-month period prescribed by section 9-1515, subsection (4); ~~or~~

Sec. 3. 11 MRSA §9-1516, sub-§(2), ¶(h) is enacted to read:

(h). In the case of a record submitted for filing or recording with the Secretary of State, the Secretary of State refuses to accept the record in compliance with Title 5, section 90-F.